STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

IN RE: PAYPHONE SERVICES	DOCKET NO. INU-99-1

ORDER TERMINATING INVESTIGATION

(Issued July 30, 1999)

On March 22 and 25, 1999, Pay Phones Concepts, Inc. (Complainant), filed two complaints with the Utilities Board (Board). The first complaint is directed at the cost of the business lines that payphone services providers (PSPs) order from local exchange service providers. The Complainant alleges the rates for payphone lines may exceed the "new services" test applicable under FCC regulations.

The second complaint is directed at some of the features included in those business lines (specifically, the call signaling that may or may not be provided with those lines). The Complainant alleges that, as a result of the lack of required signaling, a PSP cannot always make a correct determination of the billable nature of the call.

On April 23, 1999, the Board initiated this investigation to receive comment and information from local exchange carriers (LECs) and other interested persons. Answers, comments, or appearances were filed by U S WEST Communications, Inc. (U S West), GTE Midwest Incorporated (GTE), Frontier Communications, Inc. (Frontier), the Iowa Telecommunications Association (ITA), the Consumer

Advocate Division of the Department of Justice (Consumer Advocate), and the Iowa Payphone Association.

In their answers to the first complaint, the LECs claim their payphone service rates comply with the new services test. U S West states it has certified to the FCC that its payphone rate is in full compliance with the new services test. GTE states its payphone access line rates are below cost because it proposed (and offered cost support for) a higher payphone line rate in 1997, but the Board rejected the proposal and required GTE to use its lower business line rate for payphone access. The ITA argues that so long as the business rate is charged for payphone access, as required by IOWA ADMIN. CODE 199-22.3(5), the payphone access rate is cost-based and, therefore, complies with the federal requirements. Frontier indicates that, with one possible exception, its rates for pay phones are less than its average cost per access line allocated to local service under the FCC's relative usage allocation methodology, which (according to Frontier) indicates the rates are not excessive.

In their answers to the second complaint, each of the LECs argues that, due to the lack of detail in the complaint, it is difficult to determine exactly what is being alleged, but to the extent they are able to discern the issues the LECs generally assert the following: (1) Much, and perhaps all, of the requested signaling is already available on their lines in Iowa; (2) if the PSPs want special signaling they should be required to pay for it; and (3) some of the identified "problems" are beyond the control of the LEC. Each LEC also argues the allegations in the complaint about certain Bellcore industry standards and about a lack of cooperation from LECs are incorrect. The LECs claim Bellcore provides only technical industry standards, not business practices.

The ITA argues circumstances may be different for different LECs, such that the Board should dismiss the pending complaints and direct Complainant to file separate complaints if it has specific issues with particular LECs with which it does business.

Finally, the Iowa Payphone Association filed comments raising two new issues: First, whether U S West deals with its own pay phone division at arm's length, and second, whether U S West's pay phone rates cover all the costs of providing pay phone service.

On June 10, 1999, the Board issued an order in this docket concluding that, based upon the complaint and the responses, there did not appear to be any industry-wide problem for the Board to review in this docket. Accordingly, the Board found no reasonable basis for further investigation of the general complaints. However, the Board gave the Complainant 14 days to file additional information concerning any specific situations which are alleged to raise any of the problems identified in its general complaints. The Board also gave U S West 14 days to file a response to the comments filed by the Iowa Payphone Association.

On June 23, 1999, the Complainant sent a letter to the Board stating it was working with certain LECs with respect to some of the technical issues in the complaint. Complainant asked for an additional 14 days to prepare a response to the June 10 Order, while it continued to work with the LECs. On June 23, 1999, the Board granted the requested 14-day extension.

On June 24, 1999, U S West filed an answer to the Iowa Payphone Association. On the issue of whether U S West deals with its own pay phone division on arm's-length terms, U S West asserts the relationship between its regulated divisions and its unregulated pay phone division is within the exclusive jurisdiction of the FCC. U S West states that it filed a plan with the FCC on January 6, 1997, describing the equal access parameters and nonstructural safeguards it uses to ensure pay phone services are provided in a nondiscriminatory manner. The FCC approved U S West's plan on April 15, 1997. Pursuant to the plan, U S West's pay phone expenses and investments are accounted for separately and are excluded from regulated state accounts. U S West also offers an affidavit to the effect that it imposes the same charges on its pay phone division that it imposes on other pay phone providers.

On the issue of whether U S West's pay phone rates are high enough, U S West notes the Board deregulated public payphones in 1985 in Docket No. RMU-85-6 based upon a finding that the service is subject to effective competition. U S West submits the Board should not attempt in this docket to review prices set in a competitive market. U S West also states "the public payphone business in Iowa is a good business for U S WEST," implying that its rates more than cover the cost of providing public pay phone service.

On July 20, 1999, Complainant made another filing identifying three specific situations where it has tried to resolve a problem with a local exchange carrier[1]. Each of these specific situations involved a telephone number that is disconnected but that does not provide an indicator of that fact prior to the recorded message. The first involved Panora Cooperative Telephone Association. The Complainant says it has not received a response from Panora regarding the problem. The second situation involved U S West, which fixed the problem in three days. The third situation involved Frontier, which says its switch cannot provide the requested signal at that location. Frontier is alleged to be preparing a cost analysis to submit to the Board regarding this situation. Complainant asks the Board to issue a mandate to correct the problem.

The Complainant also renews its request for a generic proceeding to review all LEC pay phone line rates, claiming the Board is required to conduct these proceedings (relying upon a payphone industry publication as authority for this claim).

Based upon the record in this docket, the Board will terminate this generic investigation and invite the Complainant to file individual complaints regarding specific situations as they develop, if the Complainant is unable to resolve the issue with the LEC prior to seeking Board review. The three situations identified by Complainant in its supplemental filing demonstrate that the availability of the desired

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[1] A copy of the response was received in the General Counsel's office on July 9, 1999, but no copy was formally filed with the Records Center. Accordingly, on July 20, 1999, Board staff made copies of the General Counsel copy and had them filed as of that date.

signaling is best resolved on a case-by-case basis. Each of the three situations involved a different LEC, a different system, and a different response. It does not appear there is any form of generic relief the Board might fashion that would be useful in all of these situations.

The Board will also decline the Complainant's invitation to initiate a further investigation into pay phone line rates. Each of the rate-regulated LECs has made at least a *prima facie* showing that its existing rates for a pay telephone line are consistent with the applicable FCC requirements and with Board rules that require rate-regulated LECs to price pay phone lines at their existing business line rates. The Complainant has not advanced any real challenge to those rates, beyond a non-specific and unsupported request that the Board force the carriers to conduct proceedings that would essentially be single-service rate cases. There does not appear to be any reasonable basis for further investigation.

Finally, the Board will dismiss the Iowa Payphone Associations' request for an investigation of U S West's pay phone practices. U S West's response appears to be adequate and at this time there does not appear to be any reasonable basis for further investigation of U S West's transactions with its pay phone division or of U S West's pay phone pricing.

IT IS THEREFORE ORDERED:

1. The complaints and requests for formal investigation of the pay phone rates and practices filed by Pay Phone Concepts, Inc., on March 22 and 25, 1999, are dismissed because there is no reasonable ground shown for a generic

investigation of the subject matter of either complaint. Complainant is free to submit for the Board's consideration specific complaints about any particular problems as they may arise.

2. The request of the Iowa Payphone Association for a general investigation of U S West's payphone practices is denied because, based upon the answer filed by U S West, there is no reasonable ground shown for a formal investigation of the subject matter of the complaint.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

Dated at Des Moines, Iowa, this 30th day of July, 1999.